

REMARKS

This Reply is submitted in response to an Office Action mailed September 19, 2005. Claims 1-37 are pending in the present application for the Examiner's review and consideration. In view of the following remarks and enclosed Declaration, reconsideration by the Examiner and allowance of the application are respectfully requested.

Claims 1-37 are rejected under 35 U.S.C. §103(a) as being unpatentable over Brunner (U.S. Patent No. 6,254,920) or Lin et al. (Published U.S. Application No. 2005/0037108) in view of Todd, Jr. (U.S. Patent No. 6,099,879) and Buckholz, Jr. et al. (U.S. Patent No. 4,514,431) and further in view of Gierhart et al. (U.S. Patent No. 5,186,964), Majlinger (U.S. Patent No. 4,215,149), and Scaglione (U.S. Patent No. 5,015,485).

Gierhart et al., Brunner, and Lin et al. disclose pet food palatability enhancer compositions containing a pyrophosphate salt. Lin et al. is more specifically directed to the use of tetrapotassium pyrophosphate salts. Majlinger discloses phosphate salts as pet food palatability enhancers. Scaglione discloses coating dog biscuits with pyrophosphate salts for tartar control.

On the other hand, Todd, Jr. and Buckholz, Jr. are completely irrelevant to the subject of pet food palatability. Todd, Jr. discloses treating meat products with rosemary extract and one or more anti-oxidants selected from tocopherols, ascorbic acid, citric acid and sodium tripolyphosphate to preserve flavor in irradiated meat for human consumption. Buckholz, Jr. et al. discloses an MSG-type flavor enhancer and seasoning composition for meat products containing from about 6 mole percent up to 50 mole percent of a phosphate and/or a monoacid phosphate and/or a diacid phosphate and/or phosphoric acid taken alone or further together with at least one tripolyphosphate, pyrophosphate or polymetaphosphate.

However, the claims of the present application are directed to pet food palatability enhancer compositions containing tripolyphosphate salts. As discussed in paragraphs 8-19 of the enclosed Rule 132 Declaration of Bob J. Dull, Ph.D., tripolyphosphates have unexpectedly

superior palatability properties over pyrophosphates. The present invention represents more than the replacement of pyrophosphate palatability enhancers with a similar material. The palatability tests demonstrate that the use of polyphosphates represents an inventive step over the state of art identified by the Examiner.

Furthermore, the two cited prior art publications disclosing polyphosphates provide no motivation to replace the phosphates and pyrophosphates of the other cited prior art publications with polyphosphates. Todd, Jr. discloses polyphosphates among a listing of anti-oxidants that can be optionally used in combination with rosemary oil (another anti-oxidant) to preserve flavor in irradiated meat for human consumption. That is, flavor is preserved, not enhanced. Buckholz, Jr. et al. discloses polyphosphates or pyrophosphates can optionally be used in combination with phosphates in an MSG-type flavor enhancer for human foodstuff.

Neither publication provides the motivation for replacing the pyrophosphates or phosphates of the other cited prior art references with polyphosphates in pet food palatability enhancer compositions. There is no suggestion in Buckholz, Jr. that polyphosphates enhance food palatability. Buckholz, Jr. prefers phosphates over polyphosphates and pyrophosphates.

Thus, the cited combination of prior art does not disclose the replacement of pyrophosphates with polyphosphates or the advantages obtained therefrom as evidenced in the enclosed Declaration of Dr. Dull. Therefore, the rejection of claims 1-37 is respectfully traversed.

To be complete, applicants note that a date of invention prior to the filing date of Lin et al. can be established if necessary. Applicants reserve the right to file a Rule 131 Declaration to document an earlier date of invention.

Accordingly, in view of the foregoing remarks, this application is now believed to be in condition for allowance. Reconsideration is respectfully requested. However, the Examiner is requested to telephone the undersigned if there are any remaining issues in this application to be resolved.

A Credit Card Authorization for the three-month Petition for Extension of Time fee of \$1,020.00 is enclosed. The Examiner is authorized to charge any additional fees to Applicants' Deposit Account No. 19-5425 therefor.

Respectfully submitted,

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